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Promotion and protection of the rights of children

Argentina, Austria, Belgium, Belize, Brazil, Chile, Colombia, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Nicaragua, Panama, Paraguay, Peru, Poland, Portugal, Saint Vincent and the Grenadines, Slovakia, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela: draft resolution

Rights of the child

The General Assembly,

Recalling its previous resolutions on the rights of the child, the most recent of which is resolution 58/157 of 22 December 2003, as well as Commission on Human Rights resolution 2004/48 of 20 April 2004,[1]

Emphasizing that the Convention on the Rights of the Child[2] must constitute the standard in the promotion and protection of the rights of the child, and bearing in mind the importance of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography,[3] as well as other relevant human rights instruments,

Reaffirming that the general principles of, inter alia, the best interests of the child, non-discrimination, participation and survival and development provide the framework for all actions concerning children, including adolescents,

Welcoming the entry into force on 25 December 2003 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and

[1] See *Official Records of the Economic and Social Council, 2004, Supplement No. 3* and corrigendum (E/2004/23 (Part I) and Corr.1), chap. II, sect. A.
[2] Resolution 44/25, annex.
[3] Resolution 54/263, annexes I and II.

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Children,[4] supplementing the United Nations Convention against Transnational Organized Crime,[5]

Reaffirming the outcome document of the special session of the General Assembly on children, entitled "A world fit for children",[6] and the commitments contained therein to promote and protect the rights of each child, every human being below the age of 18 years, including adolescents, and the integration of child rights issues into the outcome documents of all major United Nations conferences, special sessions and summits,

Welcoming the reports of the Secretary-General on the status of the Convention on the Rights of the Child[7] and on progress achieved in realizing the commitments set out in the document entitled "A world fit for children",[8]

Welcoming also the work of the Committee on the Rights of the Child in examining the progress made by States parties to the Convention in implementing the obligations undertaken in the Convention and in providing recommendations to States parties on the implementation of the Convention and, in cooperation with the Office of the United Nations High Commissioner for Human Rights, in enhancing awareness of the principles and provisions of the Convention,

Profoundly concerned that the situation of children in many parts of the world remains critical as a result of the persistence of poverty, social inequality, inadequate social and economic conditions in an increasingly globalized economic environment, pandemics, in particular HIV/AIDS, malaria and tuberculosis, environmental damage, natural disasters, armed conflict, displacement, exploitation, illiteracy, hunger, intolerance, discrimination, gender inequality, disability and inadequate legal protection, and convinced that urgent and effective national and international action is called for,

Implementation of the Convention on the Rights of the Child and the Optional Protocols thereto on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography

1. *Urges* States that have not yet done so to sign and ratify or accede to the Convention on the Rights of the Child[2] as a matter of priority, and urges States parties to implement it fully, while stressing that the implementation of the Convention and the achievement of the goals of the World Summit for Children and the special session of the General Assembly on children are mutually reinforcing;

2. *Expresses its concern* about the great number of reservations to the Convention, and urges States parties to withdraw reservations incompatible with the object and purpose of the Convention and to consider reviewing other reservations with a view to withdrawing them;

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[4] Resolution 55/25, annex II.
[5] Resolution 55/25, annex I.
[6] Resolution S-27/2, annex.
[7] A/59/190.
[8] A/59/274.

3. *Urges* States that have not yet done so to consider signing and ratifying or acceding to the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography,[3] and urges States parties to implement them fully;

4. *Urges* States parties to take all appropriate measures for the implementation of the rights recognized in the Convention by, inter alia, putting in place effective national legislation, policies and action plans and by strengthening relevant governmental structures for children, ensuring adequate and systematic training in the rights of the child for professional groups working with and for children, and encourages States to strengthen their national statistical capacities;

5. *Encourages* States to strengthen their partnership with United Nations organs, within their respective mandates, the Bretton Woods institutions and other multilateral agencies, and affirms the important role of international cooperation for the purposes of the promotion and protection of the rights of the child, in particular with regard to economic, social and cultural rights;

6. *Calls upon* States to strengthen their cooperation with the Committee on the Rights of the Child and to comply in a timely manner with their reporting obligations under the Convention and the Optional Protocols thereto, in accordance with the guidelines elaborated by the Committee, as well as to take into account the recommendations made by the Committee in the implementation of the provisions of the Convention;

7. *Notes* the Committee's ongoing efforts to reform its working methods so as to consider reports of States parties in a timely manner;

8. *Calls upon* all States and relevant actors concerned to continue to cooperate with the special rapporteurs and special representatives of the United Nations system in the implementation of their mandates;

9. *Requests* all relevant organs of the United Nations system, the Office of the United Nations High Commissioner for Human Rights and United Nations mechanisms regularly and systematically to incorporate a strong child rights perspective as well as a gender perspective throughout all activities in the fulfilment of their mandates, as well as to ensure that their staff is trained in child protection matters, and calls upon States to cooperate closely with them;

Promoting and protecting the rights of children and non-discrimination against children, including children in particularly difficult situations

Identity, family relations and birth registration

10. *Urges* all States to intensify their efforts in order to ensure the implementation of the right of the child to birth registration, preservation of identity and family relations, as recognized by law, by:

(a) Providing simplified, expeditious, effective and free procedures for birth registration;

(b) Raising awareness at the national, regional and local levels, whenever necessary, on the importance of birth registration;

(c) In the case of a child whose parents reside in different States, providing means of access and visitation in both States by respecting the principle that both parents have common responsibilities for the upbringing and development of their children;

(d) Where alternative care is necessary, promoting family- and community-based care in preference to placement in institutions;

11. *Calls upon* States to take all necessary measures to prevent and combat illegal adoptions;

12. *Also calls upon* States to take all necessary measures to address the problem of children growing up without parents, in particular orphaned children and children who are victims of family and social violence, neglect and abuse;

13. *Calls upon* all States to address cases of international abduction of children, bearing in mind that the best interest of the child shall be the primary consideration, and encourages States to engage in multilateral and bilateral cooperation to ensure, inter alia, the return of the child to the country where he or she resided immediately before the removal or retention and, in this respect, to pay particular attention to cases of international abduction of children by one of their parents or other relatives;

Poverty

14. *Calls upon* States and the international community to cooperate, support and participate in the global efforts for poverty eradication at the global, regional and country levels, recognizing that strengthened availability and effective allocation of resources are required at all of these levels, in order to ensure that all the internationally agreed development and poverty eradication goals, including those set out in the United Nations Millennium Declaration,[9] are realized within their time framework, and reaffirms that investments in children and the realization of their rights are among the most effective ways to eradicate poverty;

Health

15. *Calls upon* all States to take all necessary measures to ensure the right of all children, without discrimination, to the enjoyment of the highest attainable standard of health and to develop sustainable health systems and social services and to ensure access to such systems and services without discrimination and to pay particular attention to adequate food and nutrition to prevent disease and malnutrition, to prenatal and post-natal health care, to the special needs of adolescents and to reproductive and sexual health;

16. *Urges* all States to assign priority to activities and programmes aimed at preventing the abuse of narcotic drugs, psychotropic substances and inhalants as well as preventing other addictions, in particular addiction to alcohol and tobacco, among children and young people, especially those in vulnerable situations, and to

[9] See resolution 55/2.

counter the use of children and young people in the illicit production of and trafficking in narcotic drugs and psychotropic substances;

17. *Calls upon* all States to give support and rehabilitation to children and their families affected by HIV/AIDS and to involve children and their caregivers, as well as the private sector, to ensure the effective prevention of HIV infections through correct information and access to voluntary and confidential care, treatment and testing, including pharmaceutical products and medical technologies, affordable to all, giving due importance to the prevention of mother-to-child transmission of the virus;

Education

18. *Also calls upon* all States:

(a) To recognize the right to education on the basis of equal opportunity and non-discrimination by making primary education compulsory and available free to all children, by ensuring that all children have access to education of good quality, as well as by making secondary education generally available and accessible to all, in particular by the progressive introduction of free secondary education, bearing in mind that special measures to ensure equal access, including affirmative action, contribute to achieving equal opportunity and combating exclusion;

(b) To design and implement programmes to provide social services and support to pregnant adolescents and adolescent mothers, in particular by enabling them to continue and complete their education;

(c) To take all appropriate measures to prevent racism and discriminatory and xenophobic attitudes and behaviour through education, keeping in mind the important role that children play in changing those practices;

(d) To ensure that children from an early age benefit from education programmes, materials and activities that develop respect for human rights and reflect fully the values of peace, non-violence, tolerance and gender equality;

(e) To harness the rapidly evolving information and communication technologies to support education at an affordable cost, including open and distance education, while reducing inequality in access and quality;

(f) To enable children, including adolescents, to exercise their right to express their views freely, according to their evolving capacity, and build self-esteem, acquire knowledge and skills, such as those for conflict resolution, decision-making and communication;

19. *Invites* the United Nations Educational, Scientific and Cultural Organization to continue to implement its mandated role in coordinating Education for All, as a means of reaching the commitments contained in the United Nations Millennium Declaration in this regard;

20. *Urges* States:

(a) To take measures to protect schoolchildren from violence, injury or abuse, including sexual abuse and intimidation or maltreatment in schools, to establish complaint mechanisms that are age-appropriate and accessible to children and to undertake thorough and prompt investigations of all acts of violence and discrimination;

(b) To take measures to eliminate the use of corporal punishment in schools;

Freedom from violence

21. *Calls upon* States:

(a) To take all appropriate measures to prevent and protect children from all forms of violence, including physical, mental and sexual violence, torture, child abuse, abuse by police, other law enforcement authorities and employees and officials in detention centres or welfare institutions, including orphanages, and domestic violence;

(b) To investigate and submit cases of torture and other forms of violence against children to the competent authorities for the purpose of prosecution and to impose appropriate disciplinary or penal sanctions against those responsible for such practices;

22. *Calls upon* all States to end impunity for perpetrators of crimes committed against children, recognizing in this regard the contribution of the establishment of the International Criminal Court as a way to prevent violations of human rights and international humanitarian law, in particular when children are victims of serious crimes, including the crime of genocide, crimes against humanity and war crimes, and to bring perpetrators of such crimes to justice, and not to grant amnesties for these crimes;

23. *Requests* all relevant human rights mechanisms, in particular special rapporteurs and working groups, within their mandates, to pay attention to the special situations of violence against children, reflecting their experiences in the field;

24. *Welcomes* the oral progress report of the independent expert for the United Nations study on violence against children presented to the General Assembly at its fifty-ninth session, and invites him to report to the Assembly at its sixtieth session;

Non-discrimination

25. *Calls upon* States to take all the necessary legislative and other measures to ensure the rights of the child without discrimination of any kind;

26. *Notes with concern* the large number of children, particularly girls and children belonging to minorities, who are among the victims of racism, racial discrimination, xenophobia and related intolerance, and stresses the need to incorporate special measures, in accordance with the principle of the best interests of the child and respect for his or her views, in programmes to combat racism, racial discrimination, xenophobia and related intolerance, and calls upon States to provide special support and ensure equal access to services for all children;

The girl child

27. *Calls upon* all States to take all necessary measures, including legal reforms where appropriate:

(a) To ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, to take effective actions against violations of those rights

and freedoms and to base programmes and policies on the rights of the child, taking into account the special situation of girls;

(b) To eliminate all forms of discrimination against girls and all forms of violence, including female infanticide and prenatal sex selection, rape, sexual abuse and harmful traditional or customary practices, including female genital mutilation, the root causes of son preference, marriages without free and full consent of the intending spouses, early marriages and forced sterilization, by enacting and enforcing legislation and, where appropriate, formulating comprehensive, multidisciplinary and coordinated national plans, programmes or strategies protecting girls;

Children with disabilities

28. *Also calls upon* all States to take necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities in both the public and the private spheres, including access to good quality education and health care and protection from violence, abuse and neglect, and to develop and, where it already exists, to enforce legislation to prohibit discrimination against them to ensure their dignity, promote their self-reliance and facilitate their active participation and integration in the community, taking into account the particularly difficult situation of children with disabilities living in poverty;

29. *Encourages* the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities to continue to consider the issue of children with disabilities in its deliberations;

Migrant children

30. *Calls upon* all States to ensure, for migrant children, the enjoyment of all human rights as well as access to health care, social services and education of good quality and to ensure that migrant children, and especially those who are unaccompanied, in particular victims of violence and exploitation, receive special protection and assistance;

Children working and/or living on the street

31. *Also calls upon* all States to prevent violations of the rights of children working and/or living on the street, including discrimination, arbitrary detention and extrajudicial, arbitrary and summary executions, torture, all kinds of violence and exploitation, and to bring the perpetrators to justice, to adopt and implement policies for the protection, social and psychosocial rehabilitation and reintegration of these children and to adopt economic, social and educational strategies to address the problems of children working and/or living on the street;

Refugee and internally displaced children

32. *Further calls upon* all States to protect refugee, asylum-seeking and internally displaced children, in particular those who are unaccompanied, who are particularly exposed to risks in connection with armed conflict, such as recruitment, sexual violence and exploitation, to pay particular attention to programmes for

voluntary repatriation and, wherever possible, local integration and resettlement, to give priority to family tracing and reunification and, where appropriate, to cooperate with international humanitarian and refugee organizations, including by facilitating their work;

Child labour

33. *Calls upon* all States to translate into concrete action their commitment to the progressive and effective elimination of child labour that is likely to be hazardous to or interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development, to eliminate immediately the worst forms of child labour, to promote education as a key strategy in this regard, including the creation of vocational training and apprenticeship programmes and the integration of working children into the formal education system, and to examine and devise economic policies, where necessary, in cooperation with the international community, that address factors contributing to these forms of child labour;

34. *Urges* all States that have not yet done so to consider ratifying the Convention concerning Minimum Age for Admission to Employment, 1973 (Convention No. 138) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182) of the International Labour Organization, and calls upon States parties to those instruments to implement them fully and to comply in a timely manner with their reporting obligations;

Children alleged to have infringed or recognized as having infringed penal law

35. *Calls upon*:

(a) All States, in particular States in which the death penalty has not been abolished, to comply with their obligations as assumed under relevant provisions of international human rights instruments, including, in particular, articles 37 and 40 of the Convention on the Rights of the Child and articles 6 and 14 of the International Covenant on Civil and Political Rights,[10] keeping in mind the safeguards guaranteeing protection of the rights of those facing the death penalty and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and calls upon those States to abolish by law, as soon as possible, the death penalty for those below the age of 18 years at the time of the commission of the offence;

(b) All States to ensure that no child in detention is sentenced to forced labour or corporal punishment or deprived of access to and provision of health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training, taking into consideration the special needs of children with disabilities in detention, in accordance with their obligations under the Convention;

[10] See resolution 2200 A (XXI), annex.

Recovery and social reintegration

36. *Encourages* States to promote actions, including through bilateral and multilateral technical cooperation and financial assistance, for the social reintegration of children in difficult situations, considering, inter alia, views, skills and capacities that these children have developed in the conditions in which they lived and, where appropriate, with their meaningful participation;

37. *Recognizes* that children affected by the severe impact of natural disasters must be provided with access to basic social services;

Prevention and eradication of the sale of children, child prostitution and child pornography

38. *Calls upon* all States:

(a) To criminalize and effectively penalize all forms of sexual exploitation and sexual abuse of children, including within the family or for commercial purposes, child pornography and child prostitution, child sex tourism, trafficking of children, the sale of children and their organs and the use of the Internet for these purposes, and to take effective measures against the criminalization of children who are victims of exploitation;

(b) To ensure the prosecution of offenders, whether local or foreign, by the competent national authorities, either in the country where the crime was committed, or in the country of which the offender is a national or resident, or in the country of which the victim is a national, or on any other basis permitted under domestic law in accordance with due process of law, and for these purposes, to afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings;

(c) To increase cooperation at all levels to prevent and dismantle networks trafficking in children;

(d) To consider ratifying or acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,[4] supplementing the United Nations Convention against Transnational Organized Crime;[5]

(e) In cases of trafficking of children, the sale of children, child prostitution and child pornography, to address effectively the needs of victims, including their safety and protection, physical and psychological recovery and full reintegration into their family and society;

(f) To combat the existence of a market that encourages such criminal practices against children, including through the adoption, effective application and enforcement of preventive, rehabilitative and punitive measures targeting customers or individuals who sexually exploit or sexually abuse children, as well as by ensuring public awareness;

(g) To contribute to the elimination of the sale of children, child prostitution and child pornography by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structures, dysfunctional families, lack of education, urban-rural

migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children;

Children affected by armed conflict

39. *Reaffirms* the essential roles of the General Assembly, the Economic and Social Council and the Commission on Human Rights in promoting and protecting the rights and welfare of children, notes the importance of the debates held by the Security Council on children and armed conflict and its resolutions,[11] and takes note of other recent documents on this issue[12] and of the importance of the undertaking by the Council to give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security, including provisions for the protection of children in the mandates of peacekeeping operations, as well as the inclusion of child protection advisers in these operations;

40. *Takes note* of the late issuance of the report of the Secretary-General on the comprehensive assessment of the United Nations system response to children affected by armed conflict,[13] and stresses the importance of considering it as a matter of priority;

41. *Recognizes* the inclusion in the Rome Statute of the International Criminal Court,[14] as a war crime, of crimes involving sexual violence and crimes of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts;

42. *Strongly condemns* any recruitment and use of children in armed conflicts contrary to international law and urges all States and other parties to armed conflict engaged in such practices to end them;

43. *Recognizes* efforts by States, the United Nations system and civil society to end the recruitment and use of children in armed conflict;

44. *Calls upon* States:

(a) When ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,[15] to raise the minimum age for voluntary recruitment of persons into the national armed forces from that set out in article 38, paragraph 3, of the Convention, bearing in mind that under the Convention persons under 18 years of age are entitled to special protection, and to adopt safeguards to ensure that such recruitment is not forced or coerced;

(b) To take all feasible measures to ensure the demobilization and effective disarmament of children used in armed conflicts and to implement effective

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[11] Resolutions 1379 (2001) of 20 November 2001, 1460 (2003) of 30 January 2003 and 1539 (2004) of 22 April 2004.

[12] A/58/546-S/2003/1053, A/58/546/Corr.1-S/2003/1053/Corr.1, A/58/546/Corr.2-S/2003/1053/Corr.2 and A/59/184-S/2004/602.

[13] A/59/331.

[14] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

[15] Resolution 54/263, annex I.

measures for their rehabilitation, physical and psychological recovery and reintegration into society, taking into account the rights and the specific needs and capacities of girls;

(c) To take all feasible measures, as a matter of priority, to prevent recruitment and use of children by armed groups, as distinct from the armed forces of a State, including the adoption of legal measures necessary to prohibit and criminalize such practices;

(d) To protect children affected by armed conflict, in particular from violations of international humanitarian law and human rights law and to ensure that they receive timely, effective humanitarian assistance in accordance with the Geneva Conventions and international humanitarian law;

45. *Calls upon* the United Nations system and the international community to cooperate with States in the development of projects to build capacity, to educate and to train demobilized children who are in the process of reintegration into their own communities and society;

Follow-up

46. *Urges* those States that have not yet done so to complete a national action plan as soon as possible incorporating the goals agreed at the special session of the General Assembly on children, as reflected in its outcome document entitled "A world fit for children",[6] and to place those goals within the framework of the Convention on the Rights of the Child;[2]

47. *Decides*:

(a) To request the Secretary-General to prepare an updated report on progress achieved in realizing the commitments set out in the document entitled "A world fit for children", with a view to identifying new challenges and making recommendations on the action needed to achieve further progress, with particular focus on the contribution that the implementation of the Convention on the Rights of the Child can make to the eradication of poverty and hunger, and to submit his report to the General Assembly at its sixtieth session;

(b) To request the Secretary-General to submit to the General Assembly at its sixtieth session a report on the rights of the child containing information on the status of the Convention and the problems addressed in the present resolution;

(c) To request the Special Representative of the Secretary-General for Children and Armed Conflict to continue to submit to the General Assembly and the Commission on Human Rights reports containing relevant, accurate and objective information on the situation of children affected by armed conflict, taking into account the outcome document adopted by the General Assembly at its special session on children and bearing in mind existing mandates and reports of relevant bodies;

(d) To invite the Chairman of the Committee on the Rights of the Child to present an oral report on the work of the Committee to the General Assembly at its sixtieth session;

(e) To focus its general debate regarding the promotion of the rights of the child, in future sessions, on specific challenges, beginning with, at its sixtieth session, the contribution that the implementation of the Convention on the Rights of the Child can make to the eradication of poverty and hunger;

(f) To continue its consideration of this question at its sixtieth session under the item entitled "Promotion and protection of the rights of children".